

DRAFT
Meeting Minutes
Minute Entry Reform Workgroup
State Courts Building, Conference Room 230
June 22, 2001

Attendees:

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| Kent Batty | Pima County |
| Vesta Blakeman | Pinal County |
| Marian Catt | Maricopa County |
| Judge Edward Dawson | Gila County |
| Sue Fremouw | Maricopa County |
| Tina Gronek | Yavapai County |
| Meredith Ingle | U.S. District Court |
| Lori Landis | U.S. District Court |
| Denise Lundin, (Co-Chair) | Cochise County |
| Barbara McCreary | Gila County |
| Marilyn Pollard | Court of Appeals, Division I |
| Carol Schrieber | Maricopa County |
| Judge Monica Stauffer | Greenlee County |
| Margaret Toot | Gila County |
| Jennifer Greene | AOC Committee Staff |
| Ted Wilson | AOC Committee Staff |

The meeting convened at 10:15 am.

? **Maricopa Minute Entry Reform Project Update**

Information was provided by Marian Catt, Sue Fremouw and Carol Schreiber regarding Maricopa's progress in identifying ways of reducing the number of minute entries generated in civil and criminal divisions of the court. The civil task force has identified some minute entries to be eliminated as part of an initial reform effort. A later phase will involve integrating and enhancing the court's automation systems. Minute entries have been eliminated where the parties have submitted an original and copies of orders on stipulations and motions. The clerk conforms and sends these out in lieu of a minute entry. Parties must provide a stamped, self-addressed envelope for each copy to be mailed out. Every one then gets the actual order rather than a minute entry. The task force will create a similar process for judgments. The clerk's docket will reflect the date and time of filing. Parties are to provide a stamped self-addressed envelope for each copy to be sent out. If there is a hearing at which witnesses are sworn and/or evidence is admitted, a minute entry is still generated and sent to all parties. The work group is considering ways to reform this too. If a party omits to bring the required order, the clerk will generate a minute entry to fill that gap. Pro se litigants present special issues.

The civil task force is developing automation procedures that will allow one point of entry

into all necessary databases. Another enhancement under development is a calendaring system that will electronically set hearings and automatically send notices to parties. In the short term, attorneys are asked to schedule hearings and notify the other side. When the enhancements are sufficiently developed, a rule change will be requested to accommodate these reforms on an experimental basis.

Sue Fremouw, criminal section supervisor for the clerk's office, reported on Maricopa's efforts to reduce the number of minute entries generated in criminal cases. Maricopa presently uses a number of forms for criminal minute entries. They have already eliminated sending copies of minute entries to the Sheriff's Office after everyone realized the information is duplicative of other documents they already have. Some minute entry forms have been reduced by several pages as a result of efforts to identify what information DOC or other agencies need. A few forms have been created to replace minute entries previously generated for, inter alia, search warrants or orders requesting presentence investigations. Maricopa hopes to design a system that will permit the courtroom clerk to complete all minute entry-type work in the courtroom. Maricopa follows Criminal Rule 35.6, which clarifies that minute entries need not be mailed to the parties for orders entered in open court.

Carol Schreiber reported on the progress of the juvenile court's minute entry elimination task force. They have divided their efforts into civil and criminal-type minute entries. They anticipate the elimination of 85 percent of all their minute entries with the help of the JOLTS automation program. Maricopa may expand its local rule (3.2i), which requires parties in civil cases to provide their own orders, to apply in juvenile matters.

Carol also reported on the court's use of its For The Record (FTR) automated record system in juvenile and family court courtrooms. The experience to date has been very favorable. Some case types don't involve a lot of transcript requests, and for that reason some court reporters would prefer not to be assigned to those case types, including juvenile matters. The FTR technology can fill the gap.

Technology like FTR can also be directed to more labor-intensive types of matters such as family courts where minute entries tend to be very lengthy and detailed.

A discussion ensued regarding division of labor between clerks and judicial assistants. This process differs substantially from one county to another. In Pima, judicial assistants generally record events occurring outside the courtroom. In Gila, J.A.'s do some minute entries, mostly for matters taken under advisement. One judge does his own. Court administration sends the clerk's office notices to be made into minute entries. Yuma reportedly only drafts minutes for in-court hearings. In Pinal, J.A.'s don't draft minute entries or notices other than rulings longer than two paragraphs. The J.A. in Greenlee drafts minute entries and mails them out. In Yavapai, J.A.'s assist with minute entries, two of them used to be courtroom clerks.

? **U.S. District Court Experience With and Without Minute Entries**

Operations Manager Lori Landis and Courtroom Services Operations Analyst Meredith Ingle explained the ways in which the federal district court deals with minute entries. Federal court culture differs in many respects from state court. With the exception of prisoner lawsuits, federal cases rarely involve pro se litigants. Courtroom deputies are also the case managers in federal court, they

create minute entries, (unsigned) minute orders and signed orders. They also are responsible for calendaring, juries, caseload management and other functions. Courtroom deputies are generally assigned to one judge and do not rotate among judges. They are not required to have shorthand skills.

Civil minutes are often prepared in the courtroom simultaneously with the docket. A minute entry is prepared for any hearing. A federal “minute entry” is a brief recording of any proceeding held in the courtroom when the judge is there with the parties. It describes who was there, who was the court reporter and anything that happened. A minute entry is only mailed out to parties who were not in attendance. Several examples were provided to the work group. A “minute order” is prepared by the deputy clerk for rulings such as settings and simple rulings on motions that don’t require a lot of explanation. Minute orders may not be signed, and will be mailed out. The clerk’s automation system prints out copies with mailing labels for each party. If a party is requesting a hearing date, some judges ask the party to bring in a notice of hearing. Special accommodations are provided for pro se litigants.

? **Appellate Attorneys’ Perspective**

Court of Appeals Division II Staff Attorney Scott Martin submitted written comments in which he concludes that it is impossible to identify in advance which minute entries in a particular case are superfluous or would definitely never be relevant to an issue on appeal. He outlined the ways in which minute entries are useful to his role in reviewing criminal felony cases and asked members to be mindful of appellants’ constitutional right to a full and accurate record.

Marilyn Pollard presented a summary of comments from attorneys in Division I on how they use minute entries in the process of reviewing the record and preparing draft decisions. In her experience, minute entries may be the only record establishing important jurisdictional events, such as whether the trial judge treated a particular motion as a time-extending motion under Rule 9 (CivAppProc). Minute entries are also used to identify who was present at a hearing, to locate a party’s attorney, to locate a party through an attorney, to identify a court reporter, to order a missing transcript and to locate a specific bit of testimony or ruling in the transcript of a lengthy trial. Interlocutory rulings are usually recorded in a minute entry. Appellate staff attorneys need to be able to determine the basis of such rulings. Many orders prepared by attorneys are worded in too summary a fashion to offer background on the jurisdictional findings of the court or why a motion was granted or denied. The minute entry often discusses these aspects of the trial court’s reasoning, which is often very important to determining the merits of the case. This is especially true in pro per matters, where the parties on appeal cannot articulate what happened below. In habeas and criminal cases, the ruling from the bench is the ruling reviewed on appeal and generally takes the form of a minute entry. The same is true in juvenile matters. All these types of information need to be available from some source, whether it is called a minute entry or something else.

? **Minute Entry Logs**

Denise Lundin explained the minute entry logs developed to identify the purposes fulfilled by individual minute entries and to identify which could be standardized, eliminated or substituted with something else. According to the logs that were completed by various counties, the majority of minute entries serve multiple purposes including memorializing a judge's ruling, notifying parties of a ruling and a future court date and/or describing events occurring in the courtroom.

? **Proposed Recommendations to the Committee on Superior Court**

Jennifer Greene presented a list of draft policy recommendations for discussion. One short-term aim of the work group may be to have the Committee on Superior Court approve a list of policies relating to minute entry reform, to provide direction for reform at the local level and to provide the basis for rule changes or administrative orders sponsored by the Committee on Superior Court. Some of the policy issues would be the subject of further consideration by the Minute Entry Reform Work Group or the Clerks' Association.

It was suggested that because several members were absent, a revised list of the proposed recommendations should be circulated for comment to the work group members and all superior court clerks to determine whether and to what extent the proposed policy statements are agreeable to everyone.

? **Schedule Next Meeting**

The next work group meeting will be held on August 24th from 10 am to 2 pm.

The meeting adjourned at 2:00 pm.